

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

GREG ABBOTT, in his capacity as
GOVERNOR OF THE STATE OF TEXAS,
and THE STATE OF TEXAS,

Defendants.

Case No. 1:23-cv-00853-DAE

**DECLARATION OF ADRIAN D. CORTEZ IN SUPPORT OF THE UNITED STATES'
MOTION FOR PROTECTIVE ORDER**

I, Adrian D. Cortez, based on my personal knowledge, do declare as follows:

1. I am a Senior Hydrologist for the United States Section of the International Boundary and Water Commission (USIBWC) where I am a member of the Water Accounting Division of the Operations Department.
2. In this role, I provide USIBWC leadership with technical analyses and opinions regarding matters of operations of the international dams and reservoirs. I also provide technical calculations of water accounting for the Colorado River and the Rio Grande River; study, develop, negotiate, and implement IBWC minutes on the same; develop and analyze basin scale water operations models; and work with technical representatives within the Mexican Section of the IBWC (MXIBWC). My program areas include the international reach of the Rio Grande from Fort Quitman, Texas to the Gulf of Mexico.

USIBWC, MXIBWC, and IBWC

3. The International Boundary and Water Commission was established to implement treaties between the United States and Mexico.

4. USIBWC is a federal agency acting on matters within its sole purview.

5. USIBWC and MXIBWC work in concert to implement treaty requirements and resolve differences during implementation. IBWC is an international organization when the two sections act in concert.

Amended 30(b)(6) Deposition Notice to USIBWC

6. I am aware that Texas served upon counsel for the United States an amended notice of 30(b)(6) depositions on June 20, 2024 for USIBWC (“USIBWC Amended Notice”).

7. I have reviewed the USIBWC Amended Notice topics.

8. USIBWC cannot prepare and provide complete testimony on USIBWC Amended Notice ¶¶ 12 & 16 because portions of the data are within the control of MXIBWC, who own and operate roughly half of the gages between Mile Marker 275.5 and 610 on the Rio Grande. Any coordination with MXIBWC to request and obtain anything in addition to what is already made publicly available would take, at minimum, several months. As to data for gages that are operated by USIBWC or for other gages that data are collected, ingested, and stored by USIBWC, information is available on USIBWC’s database. The preliminary data for MXIBWC gages are also available for locations where gage data are being transmitted via telemetry and ingested by the USIBWC.

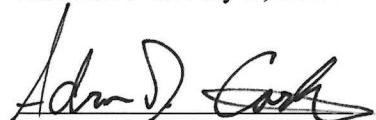
9. And even though complete or specific data and information may not be known or reasonably available to USIBWC, there is data and information is available through USIBWC’s online database. See “IBWC Water Data,” available at <https://www.ibwc.gov/water-data/>.

USIBWC's web database includes Daily Rio Grande Flow Conditions, Near Real-time Streamflow data, Weekly 5-Year Cycle Status, as well as Reservoir Reports for Amistad and Falcon dams. The available data includes gage sensor readings, calculated discharge, accumulated precipitation, and daily average Rio Grande flows. The available data sets can date back to the early 1900s, depending on the parameters and location, contain tens of millions of data points, and can be downloaded and exported into various formats including tables and maps.

10. Other of the USIBWC Amended Notice topics—USIBWC Amended Notice ¶¶ 13, 17, 18, 20, 21, 22, 33, 34—seek information that USIBWC does not currently know, possess, compile, monitor, or track in the usual course of its operations. As to USIBWC Amended Notice ¶ 13, USIBWC tracks rainfall at its gages, but does not collect any data on fog or smoke. The rainfall information is available on the publicly available database on USIBWC's website. As to USIBWC Amended Notice ¶ 33, USIBWC does not track and does not have information on the “number, location, condition, details, height, and dimensions of debris in the Rio Grande River between Mile Markers 275.5 and 610.” Except for sending USIBWC employees to physically travel the Rio Grande between Mile Markers 275.5 and 610 for the sole purpose of gathering this information, USIBWC has no way to prepare a witness to testify on this topic.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 2, 2024


Adrian D. Cortez, USIBWC
El Paso, Texas